UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEF#1) Fortino ALVARADO-Ortega,
DEF#2) Alejandro ROSAS-Campiz,

Defendant(s)

Magistrate Case No. '08 MJ 0616

COMPLAINT FOR VIOLATION OF:

Title 8 U.S.C., Sec. 1324 (a)(1)(A)(ii)

Transportation of Illegal Aliens

The undersigned complainant, being duly sworn, states:

On or about **February 28, 2008** within the Southern District of California, defendants **Fortino ALVARADO-Ortega, Alejandro ROSAS-Campiz** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Neri Alberto HERNANDEZ-Acosta, Omar CUELLAR-Castillo,** and **Pedro GARCIA-Mateo** had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **29th** DAY OF **FEBRUARY 2008**

Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

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PROBABLE CAUSE STATEMENT

Furthermore, the complainant states that **Neri Alberto HERNANDEZ-Acosta, Omar CUALLE-Castillo, and Pedro GARCIA-Mateo** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On February 28, 2008, Supervisory Border Patrol Agent M. Hansen, and Senior Patrol Agents L. Rodriguez, T. Englehorn, J. Baez and J. Petras were conducting anti-smuggling duties in Eastern San Diego County as assigned to the San Diego Sector Smuggling Interdiction Group (SIG). All SIG Agents were in plainclothes, and operating an unmarked DHS surveillance/enforcement vehicle with fully functioning emergency lights and audible police siren.

At approximately 4:50 AM, Agent Hansen was traveling westbound on I-8, approaching Crestwood Road from Ribbonwood Road when he observed a 1998 white Ford Explorer, bearing California license plates traveling at a slow speed in front of him. (Registered owner: **Alejandro ROSAS-Campiz**,Riverside, California.) Agent Hansen recalled this vehicle from a previous alien smuggling event, dated February 17, 2008.

In regards to today's event, Agent Hansen knew from prior observations of alien smuggling activities in this area that scout vehicles frequently follow vehicles loaded with illegal aliens from a distance so as to warn the loaded vehicle's driver of any approaching law enforcement vehicles. Approximately five minutes later, and two interstate exits west of Crestwood, as he approached the Buckman Springs Road off-ramp Agent Hansen observed a black Nissan Titan with paper dealer license plates exiting the interstate in front of him. Buckman Springs Road is the last exit before the operational U.S. Border Patrol Immigration Checkpoint near Pine Valley. Agent Hansen watched as the Nissan pulled to the shoulder and skidded to a stop. Before the Nissan had even come to a complete stop, the rear cargo light illuminated, indicating that one or more of the doors had been opened. Agent Hansen saw at least fifteen, but not more than twenty suspected illegal aliens jump from the cab and open bed area of the Nissan and begin to run northbound into the brush. A vehicle stop had not been initiated and Agent Hansen did not reveal his identity until it was clear to him that the vehicle was in fact an alien smuggling conveyance and all of the occupants were about to abscond. As the last of the passengers exited, Agent Hansen pulled alongside the Titan, issued a request for assistance via his DHS radio and gave chase to the fleeing suspected illegal aliens. Agent Hansen identified himself as a Border Patrol Agent and attempted to apprehend some of these fleeing individuals.

As he was running through the brush, he realized that he had heard the Nissan's engine still running. Agent Hansen returned to the Nissan in an effort to secure it and prevent anyone from fleeing in it. As he emerged from the brush, Agent Hansen observed the same white Ford Explorer he had seen westbound on I-8 now stopped on the dirt shoulder directly adjacent to the Nissan. The passenger of the Explorer was opening his door and Agent Hansen's immediate impression was that they had stopped to recover the Nissan.

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Agent Hansen approached, identifying himself as a U.S. Border Patrol Agent. The occupants of the Explorer were subsequently identified as follows; Driver: Defendant **Alejandro ROSAS-Campiz**, Front seat passenger: Defendant **Fortino ALVARADO-Ortega**, Driver side rear seat passenger: Pricilla SOLIS and passenger side rear seat passenger: Esteban TORRES. SOLIS and TORRES were covered with a blanket. The passenger quickly closed his door as Agent Hansen approached. Agent Hansen again identified himself as a Border Patrol Agent and asked ROSAS why he had stopped. ROSAS said he stopped to go to the bathroom. Agent's Note: there is a well marked, well-lit rest area at the Buckman Springs Road exit with bathrooms within 100 yards of where ROSAS stopped. Agent Hansen asked ROSAS, ALVARADO, SOLIS and TORRES for identification and requested that ROSAS turn off the Explorer's ignition.

ROSAS presented a California driver license, bearing his name and photographic likeness. ALVARADO presented a California driver license, bearing his name and photographic likeness. Even under a cursory visual inspection of this document Agent Hansen recognized it as counterfeit. SOLIS presented a California driver license, bearing her name and photographic likeness. TORRES claimed to have no identification with him.

As if offering proof that he had actually stopped to go to the bathroom, ROSAS asked if he could relieve himself in the bushes. This struck Agent Hansen as odd that once approached by a law enforcement officer ROSAS would still insist on urinating in public rather than wanting to proceed to the rest area. Agent Hansen told ROSAS to go ahead, but requested that he hand over the keys to the Explorer first.

While ROSAS was off in the bushes, Agent Hansen asked ALVARADO where they were coming from. ALVARADO said that ROSAS had been showing TORRES and SOLIS a vehicle that they were thinking of buying from him in El Centro, and that he was just along for the ride. ALVARADO said that he barely knew TORRES or SOILS. When ROSAS returned, Agent Hansen asked him where they were coming from. ROSAS said that he had been showing TORRES and SOLIS a home that they were thinking of buying from him in El Centro. ROSAS said that he had just met TORRES and SOLIS. When asked if he often showed homes to prospective buyers in the early hours of the morning, ROSAS said that they had gone to El Centro the day before to look at the house and stayed over night when it became so late. All four individuals in the Explorer disavowed any knowledge, ownership, prior contact with, or interest in the black Nissan Titan pickup truck that they had stopped alongside. All four stated that they had never seen that vehicle before.

All four of these subjects remained in the Explorer throughout this time, except for the few moments when ROSAS was in the bushes. Agent Hansen had returned to his DHS vehicle several times to briefly monitor the radio, leaving all four alone in the vehicle.

While speaking with the four individuals, responding agents apprehended seven of the fleeing individual from the Nissan. Agent Rodriguez identified himself as a U.S. Border Patrol Agent to these seven individuals and questioned them as to their citizenship and immigration status. All seven admitted to being citizens and nationals of Mexico, illegally present in the United States. Further, all admitted to having just illegally crossing the border.

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Upon learning this, Agent Hansen placed ROSAS, ALVARADO, SOLIS and TORRRES under arrest for suspicion of alien smuggling. All four were removed from the Explorer and placed under arrest. Agents requested transportation for the seven illegal aliens as well as ROSAS, ALVARADO, SOLIS and TORRRES. All individuals were placed under arrest at approximately 5:15 AM. All were transported to the El Cajon Border Patrol Station for processing. Agent Hansen seized both the 2006 Nissan Titan and the 1998 Ford Explorer.

DEFENDANTS STATEMENT #1:

Fortino ALVARADO-Ortega was advised of his Miranda Rights and was willing to make a statement without an attorney present. He stated he is a Lawfully Admitted Permanent Resident in possession of an I-551. The defendant stated he was asked by co-defendant **Alejandro ROSAS-Campiz,** who was accompanied by TORRES and SOLIS to accompany them to El Centro, California to look at a house for rent. The defendant stated **ROSAS** briefly pulled over to the side of the road to to use the restroom. At that time was when he saw the truck parked that was parked in front of them on the vehicle. He stated he is being arrested because **ROSAS** was using the restroom on the side of the road.

DEFENDANT STATEMENT #2:

Alejandro ROSAS-Campiz was advised of his Miranda Rights and was willing to make a statement without an attorney present. He stated he is a Lawfully Admitted Permanent Resident in possession of an I-551. The defendant stated that he came to San Diego, California to arrange some paperwork to legalize a vehicle in Mexico. The defendant stated he was called by co-defendant **ALVARADO** to give him a ride to pick up a truck. **ROSAS** stated they drove to San Ysidro, California where he picked up **ALVARADO** and two other individuals and proceeded to the area where the vehicle was supposedly located. **ROSAS** stated he exited in Boulevard, California due to the lack of fuel and proceeded to return to San Diego, California. After driving for a few minutes he decided to exit at Buckman Springs to use the restroom. At that same time is when he stated he saw the truck. **ROSAS** stated the reason he is being arrested is because there was an illegal alien in the truck where he stopped.

STATEMENT FROM Priscilla SOLIS:

SOLIS stated she was asked to accompany TORRES to look at a house located in El Centro, California. She stated that was picked up in a Black Nissan Titan at 4:00 AM with two males she did not know who were in the driver and passenger seats. According to TORRES the driver and passenger knew of a house to rent. She said they were traveling on I-8 where they stopped at an undisclosed location and herself, TORRES, and the front passenger got into a White Ford Explorer. The driver of the Titan proceeded to pick up the seats in the Nissan Titan. She said they continued on I-8 east and exited the highway shortly after the Golden Acorn

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Casino. She stated the driver of the Explorer made a phone call on his cell phone and stopped the vehicle. This is when Border Patrol Agents approached the vehicle and she observed the Titan parked next to the White Explorer. SOLIS was able to identify in a 12 photograph lineup and was able to identify the co-defendant **Fortino ALVARADO-Ortega** as the passenger of both the Titan and Explorer. She was also able to identify the driver of the Explorer as co-defendant **Alejandro ROSAS-Campiz.**

STATEMENT FROM Esteban TORRES:

TORRES stated that he was contacted by **Fortino ALVARADO-Ortega** to drive a vehicle through the Border Patrol Checkpoint, and agreed knowingly that it was going to be used to transport illegal aliens or narcotics. TORRES stated he was picked up by both defendants in a Black Nissan Titan very early in the morning. He identified the passenger as **ALVARADO** of the Explorer and was able to observe the driver of the Titan as **Alejandro ROSAS-Campiz.** He also stated he saw the Titan load with illegal aliens. He stated he was going to tell SOLIS to drive the Titan through the checkpoint and that everyone inside the vehicle was going to jump out near the area and walk around the checkpoint. At this time is when they were arrested by the Border Patrol. He was able to identify the Titan as the one parked on the side of the road with the illegal aliens fleeing from. TORRES was able to identify the passenger of both the Titan and Explorer as the defendant **Fortino ALVARADO-Ortega.** He was also able to identify the the driver of the Explorer as defendant **Alejandro ROSAS-Campiz.**

STATEMENT FROM Alberto MORALES-Tovar:

MORALES said that on February 27, 2008 he drove to San Diego, California in a Chevrolet Suburban. MORALES said that he came to San Diego with the intentions in getting the necessary paper work to transport, legalize and take the Chevrolet Suburban in to Mexico. MORALES said that he drove the vehicle to a parking lot located in Otay Mesa near the border and left it there were he was going to return the following morning to pick it up. MORALES said that he then called the defendant, **ROSAS,** and asked him to pick him up at a Shell gas station in Otay Mesa. MORALES said that **ROSAS** showed up in a black Nissan Titan truck to pick him up along with ALVARADO. MORALES further said that he was dropped off at the Motel 6 located in El Cajon California by both defendants, **ROSAS** and **ALVARADO**.

MATERIAL WITNESSES STATEMENTS:

Material witnesses Neri Alberto HERNANDEZ-Acosta, Omar CUELLAR-Castillo, and Pedro GARCIA-Mateo all freely admitted to being citizens and nationals of Mexico without the proper documentation to be in or enter the United States legally. All three subjects stated they illegally crossed the United States/ Mexico International Boundary fence and made arrangements to be smuggled to Los Angeles, California for approximately $1,800.00. All three subjects stated they loaded into a dark colored pick up truck until being apprehended by the Border Patrol.